

AMENDMENTS TO LB 1226

(Amendments to Standing Committee amendments, AM2578)

Introduced by Beutler, 28

1 1. Insert the following new sections:

2 Sec. 30. (1) There shall be allowed a credit with respect
3 to the income taxes imposed by the Nebraska Revenue Act of 1967
4 to a taxpayer who donates during the taxable year all or part of
5 the value of a perpetual conservation easement upon real property
6 the taxpayer owns to the state or to a charitable organization
7 approved by the Department of Natural Resources which has the
8 financial resources to indefinitely monitor and enforce the terms
9 of the easement. The credit shall only be allowed for a donation
10 that qualifies as a qualified conservation contribution pursuant to
11 section 170(h) of the Internal Revenue Code of 1986, as amended.
12 The amount of the credit shall not include the deduction for any
13 portion of an easement on real property located in another state.

14 (2) To qualify for the income tax credit:

15 (a) The taxpayer shall file an application with the
16 Department of Natural Resources. The department shall review the
17 application and render a decision within sixty days. The department
18 shall approve the application if the perpetual conservation
19 easement meets the minimal requirements set forth in subdivision
20 (2)(b) of this section and is located in an area designated as
21 overappropriated pursuant to section 46-713 or determined to be
22 fully appropriated pursuant to section 46-714.

1 (b) The perpetual conservation easement shall be in
2 perpetuity and shall preclude any pumping of water except for (i)
3 domestic purposes, (ii) stock well purposes, and (iii) restoration
4 of wetlands. The easement may permit pumping of water during any
5 period when the Department of Natural Resources determines there is
6 not a water quantity shortage;

7 (c) The taxpayer shall file the approval of the perpetual
8 conservation easement issued by the Department of Natural Resources
9 with the return for the taxable year in which the income tax credit
10 is claimed;

11 (d) The perpetual conservation easement shall be filed
12 with the office of register of deeds of each county in which real
13 property subject to the easement is located; and

14 (e) The holder of the perpetual conservation easement
15 shall have a monitoring program to ensure that the terms of the
16 easement are followed.

17 (3) The income tax credit shall be an amount equal
18 to fifteen percent of the deduction taken by the taxpayer under
19 section 170(h) of the Internal Revenue Code of 1986, as amended. If
20 the conservation easement for which the deduction is taken covers
21 land located in Nebraska and one or more other states, the amount
22 of the deduction shall be apportioned by dividing the number of
23 acres covered by the conservation easement that are located in
24 Nebraska by the total number of acres covered by the conservation
25 easement. In the case of a partnership, subchapter S corporation,
26 or other similar pass-through entity that donates a perpetual
27 conservation easement as an entity, the credit shall be allocated

1 to the entity's partners, members, or shareholders in proportion
2 to the partners', members', or shareholders' distributive shares of
3 income from the entity.

4 (4) If the income tax credit exceeds the amount of income
5 tax due on the income of the taxpayer for the taxable year, the
6 amount of the income tax credit not used shall be refunded.

7 (5) No new applications may be accepted for tax credits
8 under this section after December 31, 2012.

9 (6) On or before January 1, 2008, and each January 1
10 thereafter through January 1, 2015, the Department of Revenue
11 shall issue a report to the Legislature and Governor detailing
12 the use of income tax credits under this section. A portion
13 of the report shall show easements and income tax credits by
14 natural resources district. The Department of Natural Resources
15 shall assist the Department of Revenue with the report. The
16 report shall be presented using aggregated information and other
17 techniques so as not to reveal confidential information that allows
18 identification of any taxpayer. The report shall not be issued
19 until the Tax Commissioner has confirmed in writing that the
20 report does not reveal any confidential information that allows
21 identification of any taxpayer.

22 Sec. 31. Section 77-2701, Revised Statutes Supplement,
23 2005, is amended to read:

24 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, and
25 77-27,228 to 77-27,234 and section 30 of this act shall be known
26 and may be cited as the Nebraska Revenue Act of 1967.

27 Sec. 32. Section 77-2715.07, Revised Statutes Supplement,

1 2005, is amended to read:

2 77-2715.07 (1) There shall be allowed to qualified
3 resident individuals as a nonrefundable credit against the income
4 tax imposed by the Nebraska Revenue Act of 1967:

5 (a) A credit equal to the federal credit allowed under
6 section 22 of the Internal Revenue Code; and

7 (b) A credit for taxes paid to another state as provided
8 in section 77-2730.

9 (2) There shall be allowed to qualified resident
10 individuals against the income tax imposed by the Nebraska Revenue
11 Act of 1967:

12 (a) For returns filed reporting federal adjusted
13 gross incomes of greater than twenty-nine thousand dollars, a
14 nonrefundable credit equal to twenty-five percent of the federal
15 credit allowed under section 21 of the Internal Revenue Code of
16 1986, as amended;

17 (b) For returns filed reporting federal adjusted gross
18 income of twenty-nine thousand dollars or less, a refundable credit
19 equal to a percentage of the federal credit allowable under section
20 21 of the Internal Revenue Code of 1986, as amended, whether or
21 not the federal credit was limited by the federal tax liability.
22 The percentage of the federal credit shall be one hundred percent
23 for incomes not greater than twenty-two thousand dollars, and
24 the percentage shall be reduced by ten percent for each one
25 thousand dollars, or fraction thereof, by which the reported
26 federal adjusted gross income exceeds twenty-two thousand dollars;

27 (c) A refundable credit for individuals who qualify for

1 an income tax credit under the Beginning Farmer Tax Credit Act for
2 all taxable years beginning or deemed to begin on or after January
3 1, 2001, under the Internal Revenue Code of 1986, as amended; and

4 (d) A refundable credit for individuals who qualify for
5 an income tax credit under the Nebraska Advantage Microenterprise
6 Tax Credit Act or the Nebraska Advantage Research and Development
7 Act.

8 (3) There shall be allowed to all individuals as a
9 nonrefundable credit against the income tax imposed by the Nebraska
10 Revenue Act of 1967:

11 (a) A credit for personal exemptions allowed under
12 section 77-2716.01; and

13 (b) A credit for contributions to certified community
14 betterment programs as provided in the Community Development
15 Assistance Act. Each partner, each shareholder of an electing
16 subchapter S corporation, each beneficiary of an estate or trust,
17 or each member of a limited liability company shall report his or
18 her share of the credit in the same manner and proportion as he
19 or she reports the partnership, subchapter S corporation, estate,
20 trust, or limited liability company income.

21 (4) There shall be allowed as a credit against the income
22 tax imposed by the Nebraska Revenue Act of 1967:

23 (a) A credit to all resident estates and trusts for taxes
24 paid to another state as provided in section 77-2730; and

25 (b) A credit to all estates and trusts for contributions
26 to certified community betterment programs as provided in the
27 Community Development Assistance Act.

1 (5) There shall be allowed to all business firms as a
2 credit against the income tax imposed by the Nebraska Revenue Act
3 of 1967 a credit as provided in section 77-27,222.

4 (6) There shall be allowed as a refundable credit against
5 the income tax imposed by the Nebraska Revenue Act of 1967 a credit
6 as provided in section 30 of this act.

7 Sec. 33. Section 77-2717, Revised Statutes Supplement,
8 2005, is amended to read:

9 77-2717 (1)(a) The tax imposed on all resident estates
10 and trusts shall be a percentage of the federal taxable income
11 of such estates and trusts as modified in section 77-2716, plus
12 a percentage of the federal alternative minimum tax and the
13 federal tax on premature or lump-sum distributions from qualified
14 retirement plans. The additional taxes shall be recomputed by (i)
15 substituting Nebraska taxable income for federal taxable income,
16 (ii) calculating what the federal alternative minimum tax would
17 be on Nebraska taxable income and adjusting such calculations for
18 any items which are reflected differently in the determination
19 of federal taxable income, and (iii) applying Nebraska rates to
20 the result. The federal credit for prior year minimum tax, after
21 the recomputations required by the Nebraska Revenue Act of 1967,
22 and the credits provided in the Nebraska Advantage Microenterprise
23 Tax Credit Act, the Nebraska Advantage Research and Development
24 Act, and section 77-27,222 and section 30 of this act shall be
25 allowed as a reduction in the income tax due. A refundable income
26 tax credit shall be allowed for all resident estates and trusts
27 under the Nebraska Advantage Microenterprise Tax Credit Act and the

1 Nebraska Advantage Research and Development Act.

2 (b) The tax imposed on all nonresident estates and trusts
3 shall be the portion of the tax imposed on resident estates and
4 trusts which is attributable to the income derived from sources
5 within this state. The tax which is attributable to income derived
6 from sources within this state shall be determined by multiplying
7 the liability to this state for a resident estate or trust with
8 the same total income by a fraction, the numerator of which is
9 the nonresident estate's or trust's Nebraska income as determined
10 by sections 77-2724 and 77-2725 and the denominator of which is
11 its total federal income after first adjusting each by the amounts
12 provided in section 77-2716.

13 (2) In all instances wherein a fiduciary income tax
14 return is required under the provisions of the Internal Revenue
15 Code, a Nebraska fiduciary return shall be filed, except that a
16 fiduciary return shall not be required to be filed regarding a
17 simple trust if all of the trust's beneficiaries are residents of
18 the State of Nebraska, all of the trust's income is derived from
19 sources in this state, and the trust has no federal tax liability.
20 The fiduciary shall be responsible for making the return for the
21 estate or trust for which he or she acts, whether the income be
22 taxable to the estate or trust or to the beneficiaries thereof.
23 The fiduciary shall include in the return a statement of each
24 beneficiary's distributive share of net income when such income is
25 taxable to such beneficiaries.

26 (3) The beneficiaries of such estate or trust who are
27 residents of this state shall include in their income their

1 proportionate share of such estate's or trust's federal income and
2 shall reduce their Nebraska tax liability by their proportionate
3 share of the credits as provided in the Nebraska Advantage
4 Microenterprise Tax Credit Act, the Nebraska Advantage Research
5 and Development Act, and section 77-27,222 and section 30 of this
6 act. There shall be allowed to a beneficiary a refundable income
7 tax credit under the Beginning Farmer Tax Credit Act for all
8 taxable years beginning or deemed to begin on or after January 1,
9 2001, under the Internal Revenue Code of 1986, as amended.

10 (4) If any beneficiary of such estate or trust is a
11 nonresident during any part of the estate's or trust's taxable
12 year, he or she shall file a Nebraska income tax return which
13 shall include (a) in Nebraska adjusted gross income that portion
14 of the estate's or trust's Nebraska income, as determined under
15 sections 77-2724 and 77-2725, allocable to his or her interest
16 in the estate or trust and (b) a reduction of the Nebraska tax
17 liability by his or her proportionate share of the credits as
18 provided in the Nebraska Advantage Microenterprise Tax Credit Act,
19 the Nebraska Advantage Research and Development Act, and section
20 77-27,222 and section 30 of this act and shall execute and forward
21 to the fiduciary, on or before the original due date of the
22 Nebraska fiduciary return, an agreement which states that he or she
23 will file a Nebraska income tax return and pay income tax on all
24 income derived from or connected with sources in this state, and
25 such agreement shall be attached to the Nebraska fiduciary return
26 for such taxable year.

27 (5) In the absence of the nonresident beneficiary's

1 executed agreement being attached to the Nebraska fiduciary return,
2 the estate or trust shall remit a portion of such beneficiary's
3 income which was derived from or attributable to Nebraska sources
4 with its Nebraska return for the taxable year. The amount of
5 remittance, in such instance, shall be the highest individual
6 income tax rate determined under section 77-2715.02 multiplied by
7 the nonresident beneficiary's share of the estate or trust income
8 which was derived from or attributable to sources within this
9 state. The amount remitted shall be allowed as a credit against the
10 Nebraska income tax liability of the beneficiary.

11 (6) The Tax Commissioner may allow a nonresident
12 beneficiary to not file a Nebraska income tax return if the
13 nonresident beneficiary's only source of Nebraska income was his or
14 her share of the estate's or trust's income which was derived from
15 or attributable to sources within this state, the nonresident did
16 not file an agreement to file a Nebraska income tax return, and
17 the estate or trust has remitted the amount required by subsection
18 (5) of this section on behalf of such nonresident beneficiary. The
19 amount remitted shall be retained in satisfaction of the Nebraska
20 income tax liability of the nonresident beneficiary.

21 (7) For purposes of this section, unless the context
22 otherwise requires, simple trust shall mean any trust instrument
23 which (a) requires that all income shall be distributed currently
24 to the beneficiaries, (b) does not allow amounts to be paid,
25 permanently set aside, or used in the tax year for charitable
26 purposes, and (c) does not distribute amounts allocated in the
27 corpus of the trust. Any trust which does not qualify as a simple

1 trust shall be deemed a complex trust.

2 Sec. 34. Section 77-2734.03, Revised Statutes Supplement,
3 2005, is amended to read:

4 77-2734.03 (1)(a) For taxable years commencing prior to
5 January 1, 1997, any (i) insurer paying a tax on premiums and
6 assessments pursuant to section 77-908 or 81-523, (ii) electric
7 cooperative organized under the Joint Public Power Authority Act,
8 or (iii) credit union shall be credited, in the computation of
9 the tax due under the Nebraska Revenue Act of 1967, with the
10 amount paid during the taxable year as taxes on such premiums and
11 assessments and taxes in lieu of intangible tax.

12 (b) For taxable years commencing on or after January 1,
13 1997, any insurer paying a tax on premiums and assessments pursuant
14 to section 77-908 or 81-523, any electric cooperative organized
15 under the Joint Public Power Authority Act, or any credit union
16 shall be credited, in the computation of the tax due under the
17 Nebraska Revenue Act of 1967, with the amount paid during the
18 taxable year as (i) taxes on such premiums and assessments included
19 as Nebraska premiums and assessments under section 77-2734.05 and
20 (ii) taxes in lieu of intangible tax.

21 (c) For taxable years commencing or deemed to commence
22 prior to, on, or after January 1, 1998, any insurer paying a tax on
23 premiums and assessments pursuant to section 77-908 or 81-523 shall
24 be credited, in the computation of the tax due under the Nebraska
25 Revenue Act of 1967, with the amount paid during the taxable year
26 as assessments allowed as an offset against premium and related
27 retaliatory tax liability pursuant to section 44-4233.

1 (2) There shall be allowed to corporate taxpayers a
2 tax credit for contributions to community betterment programs as
3 provided in the Community Development Assistance Act.

4 (3) There shall be allowed to corporate taxpayers a
5 refundable income tax credit under the Beginning Farmer Tax Credit
6 Act for all taxable years beginning or deemed to begin on or
7 after January 1, 2001, under the Internal Revenue Code of 1986, as
8 amended.

9 (4) There shall be allowed to corporate taxpayers a tax
10 credit as provided in section 77-27,222.

11 (5) The changes made to this section by Laws 2004, LB
12 983, apply to motor fuels purchased during any tax year ending
13 or deemed to end on or after January 1, 2005, under the Internal
14 Revenue Code of 1986, as amended.

15 (6) There shall be allowed to corporate taxpayers
16 refundable income tax credits under the Nebraska Advantage
17 Microenterprise Tax Credit Act and the Nebraska Advantage Research
18 and Development Act.

19 (7) There shall be allowed to corporate taxpayers as a
20 refundable credit against the income tax imposed by the Nebraska
21 Revenue Act of 1967 a credit as provided in section 30 of this act.

22 Sec. 38. Original sections 77-2701, 77-2715.07, 77-2717,
23 and 77-2734.03, Revised Statutes Supplement, 2005, are repealed.

24 2. Correct the operative date section so that the
25 sections added by this amendment become operative for all taxable
26 years beginning or deemed to begin on or after January 1, 2006,
27 under the Internal Revenue Code of 1986, as amended.